

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION

HARVEY BRAMLETT, JR., PRO SE, §
TDCJ-CID No. 416448, §
§
Plaintiff, §
§
v. § 2:10-CV-0238
§
DOUGLAS WOODBURN and §
CAROLINE WOODBURN, §
§
Defendants. §

ORDER OF DISMISSAL

Plaintiff HARVEY BRAMLETT, JR., while a prisoner confined in the Texas Department of Criminal Justice, Correctional Institutions Division, filed suit pursuant to Title 42, United States Code, section 1983 complaining against the above-named defendants, and has been granted permission to proceed *in forma pauperis*.

On January 6, 2011, a Report and Recommendation was issued by the United States Magistrate Judge recommending the instant cause be dismissed with prejudice as frivolous and without prejudice for failure to state a claim on which relief can be granted. Plaintiff was instructed he could utilize the response period to file objections or amend his pleading to cure his deficient claim against defendant CAROLINE WOODBURN.

Plaintiff filed his Objections on January 19, 2011.

By his Objections, plaintiff complains that he was required to file an amended complaint in compliance with L.R. 5.3 of the Local Civil Rules of the United States District Court for the Northern District of Texas and Miscellaneous Order No. 14, on the form provided by the Court.

Plaintiff requests the Court to accept his original complaint as the statement of his claim.

Plaintiff does not explain what factual allegations he feels are contained in his original complaint which were not presented in his amended complaint and which cure the failure to state a claim against defendant CAROLINE WOODBURN or how his original complaint is a better statement of his claim in any other respect.

Further, plaintiff complains that he filed a notice withholding consent to any proceedings in this cause before the Magistrate Judge. In performing the tasks he has performed, the Magistrate Judge has acted pursuant to Special Order 3-251 of the Special Orders of the United States District Court for the Northern District of Texas and in compliance with Title 28, United States Code, section 636.

The Court has made an independent examination of the records in this case and has examined the Magistrate Judge's Report and Recommendation, as well as the Objections filed by the plaintiff and plaintiff's original and amended complaints.

The Court is of the opinion that the objections of the plaintiff should be OVERRULED and the Report and Recommendation of the United States Magistrate Judge should be ADOPTED by the United States District Court, as supplemented herein.

This Court, therefore, does OVERRULE plaintiff's objections, and does hereby ADOPT the Report and Recommendation of the United States Magistrate Judge, as supplemented herein.

IT IS THEREFORE ORDERED that the Civil Rights Complaint by HARVEY BRAMLETT, JR., is DISMISSED WITH PREJUDICE AS FRIVOLOUS AND WITHOUT

PREJUDICE FOR FAILURE TO STATE A CLAIM ON WHICH RELIEF CAN BE
GRANTED.

LET JUDGMENT BE ENTERED ACCORDINGLY.

The Clerk shall send a copy of this order to plaintiff and to any attorney of record. The Clerk shall also mail copies of this order to TDCJ-Office of the General Counsel, P.O. Box 13084, Austin, TX 78711; and to the Pro Se Clerk at the U.S. District Court for the Eastern District of Texas, Tyler Division.

IT IS SO ORDERED.

Signed this the 20 day of January, 2011.


MARY LOU ROBINSON
United States District Judge